

UNITED STATES DISTRICT COURT

for the

District of New Mexico



FILED
 United States District Court
 Albuquerque, New Mexico
 Mitchell R. Elfers
 Clerk of Court

United States of America
 v.

Case No. MJ 22-974 JHR

TYRONE ATCITY NEZ
 year of birth 1989

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 8, 2022 in the county of San Juan in the
District of New Mexico, the defendant(s) violated:

Code Section
 18 U.S.C. § 1153
 18 U.S.C. § 1111(a)

Offense Description
 Crimes in Indian Country
 Second Degree Murder

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.

Complainant's signature

William H. Berry Jr, Special Agent
Printed name and title

Sworn telephonically, signed remotely, and transmitted by email

Date: June 10, 2022

Judge's signature

City and state: Albuquerque, NM

Jerry Ritter, U.S. Magistrate Judge
Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

VS

TYRONE ATCITY NEZ
Year of birth: 1989

Case No. _____

AFFIDAVIT IN SUPPORT OF CRIMINAL
COMPLAINT

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, William H. Berry Jr., being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent (SA) with the United States Department of Justice, Federal Bureau of Investigation (FBI), and have been employed in that capacity for approximately four years. I am currently assigned to the Albuquerque Division of the FBI, Farmington Resident Agency, and have primary investigative responsibility for crimes that occur in Indian Country, including violent crimes such as homicide, robbery, aggravated assault, and sexual assault. I am also responsible for investigating all other federal crimes for which the FBI investigates in the San Juan County area of New Mexico (NM).

2. The information set forth in this affidavit has been derived from an investigation conducted by SA Berry, Shiprock Criminal Investigator (CI) Jefferson Joe (Navajo Department of Criminal Investigations), and/or communicated to me by other law enforcement officers of the Navajo Nation and witnesses. This affidavit is in support of criminal charges against subject Tyrone Atcityy Nez, year of birth (YOB) 1989 (hereafter referred to as NEZ), to include 18 U.S.C. § 1153 (Crimes in Indian Country) and 18 U.S.C. § 111(a) (Second Degree Murder).

3. On the evening of June 8, 2022, CI Joe notified SA Berry of a homicide which occurred in 1.5 miles west of Sanostee Chapter House, Sanostee, NM with the grid coordinates of

36°4287503' -108°9019276. This location is within the exterior boundaries of the Navajo Nation Indian Reservation. SA Berry was informed by CI Joe that upon Navajo Police Department (NPD) Officers' arrival to the scene, NEZ was on his knees with his hands behind his back claiming to have assaulted his family member who was laying unresponsive inside the residence NEZ lived in. The Victim, B.Z, year of birth (YOB) 1990, (hereafter referred to as John Doe) was found unresponsive without a pulse by NPD laying on his side. Both NEZ and John Doe are members of the Navajo Nation. NEZ was arrested by NPD and taken to Crownpoint Detention Facility, Crownpoint, NM on a 36 hour hold. Emergency Medical Services were unable to resuscitate John Doe.

4. CI Joe and SA Berry spoke with neighbors of NEZ which identified NEZ and John Doe seemed to be intoxicated stumbling from outside to inside the residence. At one point, NEZ left the residence to yell obscenities to neighbors but returned to his residence when the threats of calling the police were given by the neighbors. 10 to 15 minutes after NEZ returned to the inside of the residence where John Doe was left, NEZ came out screaming for his neighbors to call 911 requesting medical assistance for himself and John Doe.

5. Pursuant to a consent to search by the resident owner, SA Berry and CI Joe investigated the scene where John Doe lay with apparent blunt force trauma to his face. John Doe's face was swollen and covered with blood. There was blood splatter on the side of the wall he was originally found facing with a pool of blood deriving from his nose and mouth.

6. On June 9, 2022, SA Berry and CI Joe conducted a recorded interview of NEZ following the reading and signing of the FBI Advice of Rights. NEZ initially claimed self-defense. Upon further questioning, NEZ admitted to punching John Doe one time which rendered John Doe unconscious. After John Doe fell to the ground, NEZ realized John Doe was unconscious and

began stomping on his face 5 to 10 times repeatedly with his boots. During the time he was stomping on his face, John Doe was unresponsive. After stomping on him, NEZ went outside of the residence and started yelling for help asking neighbors to call 911 so he and his family member can receive medical treatment.

7. When asked how NEZ was defending himself, he identified that while they were heavily drinking, John Doe would wrap his arms around NEZ as if to place him in choke holds and hit him in the stomach “lightly”. NEZ could not identify any evidence of assault by John Doe. SA Berry took photos of NEZ’s hands, neck, face, and stomach. There were no marks left behind that were caused within the previous 24 hours. NEZ had bite marks and partially healed bruises from an assault which occurred weeks prior to the interview.

8. NEZ believes he has a bench warrant for failure to appear for a previous assault against his neighbor in which NEZ took a bite of his neighbor’s right ear while they were drinking alcohol. NEZ did not go to court because his neighbor did not want to pursue charges.

9. A National Crime Information Center Report indicated NEZ White has three prior arrests. NEZ was arrested by Gunnison, Utah Police Department, Sanpete County Sheriff’s Office, Farmington Police Department (FPD), and San Juan County Sheriff’s Office in Aztec, NM. The list of pending charges include but are not limited to the following:

- a. October 13, 2021, NM Stat § 31-03-09,F,4 Failure to appear on a felony charge
- b. August 29, 2020, NM Stat § 30-31-23(A), F, 4 Possession of a controlled substance; NM Stat § 30-15-01, M, P, Criminal damage to property
- c. June 28, 2008 NM Stat § 03-38-19, M, H, Failure to pay tax; NM Stat § 60-07B-01(C), M, P, Possession of alcoholic beverages by a minor

10. In addition to the arrests and charges by San Juan County Sheriff's Office, FPD, and Gunnison Police Department, NEZ has at least 14 separate arrests by the Navajo Police Department including 5 arrests for public intoxication, 5 arrests for disorderly conduct, 1 battery of a family member, and 3 arrest warrant executions.

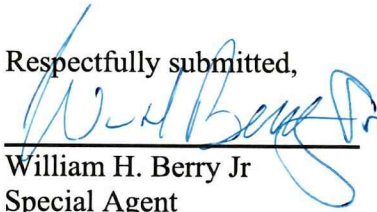
CONCLUSION

11. Based on the information provided in this affidavit, your affiant submits a criminal complaint identifying that on or about June 8, 2022, NEZ, an enrolled member of the Navajo Indian Tribe, was within the territorial jurisdiction of the Navajo Indian Reservation committed second degree murder of John Doe violating the Subject Offenses 18 U.S.C. § 1153 (Crimes in Indian Country), 18 U.S.C. § 1111(a) (Second Degree Murder).

12. Your Affiant swears this information to be true and correct to the best of his knowledge and belief.

13. Supervisory Assistant United States Attorney Kyle Nayback, United States Attorney's Office, District of New Mexico, reviewed this affidavit and approved the criminal complaint.


Respectfully submitted,



William H. Berry Jr
Special Agent
Federal Bureau of Investigation
Farmington, New Mexico

Sworn Telephonically, signed remotely,
and transmitted by email
Before me this 10 day

Of June, 2022.


The Honorable JERRY RITTER
United States Magistrate Judge